IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

WP(C).No. 28506 of 2005(R)

AGAINST THE ORDER DATED / / IN EP 137/2004 IN OS.753/2001 of II ADDL.SUB COURT,THRISSUR

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PETITIONERS:

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1. SREE POORNA ROLLER FLOOR MILLS PVT. LTD.
   POOTHOLE, TRICHUR,
   REPRESENTED BY MG.DIRECTOR T.P.VISWANATHAN.

2. T.P.VISWANATHAN,
   S/O.T.S.PARAMESWARAN IYER,
   SANKAR NIVAS, 22/522, SHORNUR ROAD, THRISSUR.

3. T.P.PARAMESWARAN,
   S/O.T.S.PARAMESWARAN IYER,
   SANKAR NIVAS, 22/522, SHORNUR ROAD,
   TRICHUR.

4. P.K.GEETHA,
   W/O.T.P.VISWANATHAN, SANKAR NIVAS,
   22/522, SHORNUR ROAD, TRISSUR.

BY ADV. SRI.K.I.MAYANKUTTY MATHER
SRI.SUNIL SHANKER

RESPONDENT:

KERALAKSHEMAM UNIQUE KURIES (P) LTD.,
MUNICIPAL BUILDING,
SAKTHAN NAGAR, THRISSUR-1.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC 28506/05)

PETITIONERS' EXTS.:

EXT.P1: TRUE COPY OF OBJECTION FILED BY THE 2ND PETITIONER (2ND JUDGMENT DDEBTOR) TO O.21 R.66 NOTICE.

EXT.P2: TRUE COPY OF THE ORDER PASSED BY SUB COURT, THRISSUR IN E.P.137/04 IN O.S.753/01.

EXT.P3: TRUE COPY OF THE SALE PROCLAMATION.

PIUS C. KURIAKOSE,J.

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W.P.(C) No.28506 of 2005

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Dated: 2nd August, 2007

JUDGMENT

The order of the learned Subordinate Judge directing sale of the entire decree schedule property is under challenge by the judgment-debtors inter alia on the ground that a portion of the property will suffice for realising the decree debt. While admitting the Writ Petition and granting stay, this court imposed a condition that a sum of Rs.One lakhs be paid within one month from 6.10.2005. I am informed that the above condition was complied with by the petitioners. Learned counsel for the petitioners submitted that the petitioners will be ready to pay off the entire balance amount provided time is given. Learned counsel for the respondent submitted that the respondent wants only early recovery of the amounts due under the decree.

2. Having regard to the rival submissions, I am of the view that the Writ Petition can be disposed of issuing the following directions:

The order of stay will continue for another six months from today. It is open to the petitioners to identify a purchaser for whichever portion of the suit schedule property who will be prepared to pay the amount necessary for discharging the entire decree debt.

Once such a purchaser is identified, the petitioners will file an application before the execution court seeking permission of the court to have a private sale to that purchaser. The court will pass appropriate orders in that application and thereby ensure that the respondent receives balance decree debt either from the petitioners or from the prospective purchaser. At any rate, the order of stay will not continue beyond six months. It is open to the petitioners to sort out the issue with the respondent even out of court.

The Writ Petition will stand disposed of as above. No costs.

srd **PIUS C.KURIAKOSE, JUDGE**